IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5066 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

KISHORE NAGARBHAI PATEL

Appearance:

MRS VASAVDATTA BHATT for Petitioner

MR MUKESH H RATHOD for Respondent No. 1

CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 04/02/2000

ORAL JUDGEMENT

1. On a joint request of learned counsel for the respective parties, this matter is taken up for final hearing today.

2. The short and pertinent facts for the purpose of

the present petition are that the respondent workman was employed as a conductor by the petitioner - Gujarat State Road Transport Corporation at the relevant time. He was charged in a domestic inquiry broadly to the effect that he had collected fare from 10 passengers, but had not issued tickets, and that he collected the fare from 5 other passengers and issued unpunched tickets. After following due procedure in respect of the domestic inquiry, which ultimately resulted in the matter going before the reviewing authority, which imposed a punishment of dismissal. This was challenged by the workman by way of a reference.

3. The Labour Court, after appreciating the evidence on record, found that the punishment of dismissal is too harsh on the facts and circumstances of the case, and that there are certainly ameliorating factors which would justify the punishment less severe than dismissal. On this aspect, it has been noted that the conductor was newly recruited into the post of conductor, and that his appointment was also temporary. He was working as a conductor for hardly a month and half and therefore, it could hardly be said that he was a person experienced in this field. Moreover, his default card also indicates that, apart from the present incident, there were absolutely no other complaints against him on any ground whatsoever.

4. Both the learned counsel for the respective parties have addressed me on the question of appropriate punishment which will meet the ends of justice, and as a result of the hearing and discussion, learned counsel have arrived at a consensus, on the basis of which, it is directed that the respondent workman shall be entitled to reinstatement, but without any backwages whatsoever, and shall also suffer three increments with permanent effect.

5. It is accordingly so directed. The impugned judgement and award stand modified only to the aforesaid extent and confirmed as to the rest.

6. Rule is accordingly partly made absolute with no orders as to costs.

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